



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

SPED 04-19

MEMORANDUM

To: Special Education Directors

From: Joanne C. Phillips
Deputy Associate Superintendent
Exceptional Student Services

Date: 9/16/04

Re: Release of Student Information for Medicaid Reimbursement

In general, the Family Educational Rights and Privacy Act (FERPA), and its implementing regulations, prohibits the disclosure to "third parties" of most pupil records without the prior written consent of the parent of a minor student, of a student who is eighteen years of age, or as otherwise permitted by FERPA.

Public education agency disclosure of student information, i.e. names of *all* students in special education and not just those who are AHCCCS eligible, to AHCCCS/Maximus for the purpose of identifying those who are eligible, is not permissible without prior written parental consent. In order for the consent to be considered valid under FERPA, it must meet four criteria:

1. It must be written and signed.
2. It must specify the records that may be disclosed.
3. It must state the purpose of the disclosure.
4. It must identify the persons to whom the records may be disclosed.

This information is contrary to what was previously provided to you by APIPA, the previous MIPS biller. Several complaints regarding the disclosure of confidential, personally identifiable information to AHCCCS/Maximus, which prompted a full review of the FERPA requirements, have led to the above conclusion and subsequent interpretation. **Consequently, it will be imperative that you establish a procedure to acquire written parental consent before any personally identifiable information is provided to AHCCCS/Maximus.**

A statement may be added to the IEP that includes the above four points to facilitate this process. A parent initial by that section would signify knowledge of the content, and the IEP parent signature would provide the written consent needed. Many IEP software systems already have this covered in their IEP form.

I realize that this adds an additional burden and had hoped for a better resolution. At this time, we see no alternatives and need to protect students, their families as well as schools from FERPA violations.